

## Step 5 Select employees

You need to select people for redundancy in a fair way.

Redundancy only applies to those with the [legal status of employee](#).

Someone is not likely to be an employee if they're:

- an agency worker
- a casual worker
- on a zero-hours contract

If you're proposing to make a whole team or specific group of employees redundant, you'll already have a list of roles you believe you might need to make redundant. For example, if a farm shop closes its bakery, it will need to make its bakers redundant.

But if you need to reduce the number of employees in the organisation or team, you'll need to:

- set up selection criteria
- make a list of roles to be considered for redundancy (one or more 'selection pools')

### Selection pools

Selection pools help make sure employees are selected for redundancy in a fair way.

Where a number of different roles are at risk of redundancy, you may need to have more than one selection pool.

You should include in each pool all roles that are the same or similar.

You should also consider including roles that have similar skills. For example, all marketing roles are in a selection pool. You could also include roles from the press and communications team if the skills are similar to those needed for marketing.

When setting up a selection pool, you should check and follow any:

- agreements you may have with a recognised trade union
- existing redundancy policy

If there is no existing policy or agreement, you should consider consulting any recognised trade union on how the pool should be set up.

### Using selection criteria

You should have included selection criteria in [your consultation](#).

Criteria should be as objective and measurable as possible. This means they should be fair, be based on facts that can be measured and not be affected by personal opinions.

You must apply the scoring criteria in the same way for all employees in the pool.

It's useful to agree how you will score the selection criteria. This is because:

- it can be applied to everyone (although you might need to use different criteria for different selection pools – for example, the engineering team might have a different criteria from the sales team)
- it can be easily explained to everyone
- employees feel they're being treated fairly
- it gives a clear, structured and consistent system for managing selection issues
- it can be used at employment tribunals to defend an employer's decision

Examples of selection criteria could include:

- standard of work or performance
- skills, qualifications or expertise
- attendance record, which must be accurate and not include absences relating to disability, pregnancy or maternity
- disciplinary record

You should consider the possible impact of protected characteristics when creating selection criteria. Make sure that the criteria and the way they are applied are not discriminatory.

## Following the law

It's against [discrimination law](#) to select employees based on:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

You must also not use criteria that indirectly discriminate against employees.

### Example of indirect discrimination

For example, if you use flexible working as one of the criteria, this could be sex discrimination. This is because women are more likely to have caring responsibilities that can make it harder to change their working hours.

You would need to show that flexible working is no longer possible after the organisation has changed.

Find out more about [indirect discrimination](#)

### Other areas of the law

It's also against other areas of employment law to select anyone because of:

- maternity leave, paternity leave, adoption leave, ordinary parental leave, shared parental leave, parental bereavement leave, time off for dependants and carer's leave

- their role as an employee representative or trade union representative
- membership of a trade union
- working part time or on a fixed-term contract
- [working time regulations](#) – for example if they've raised concerns about holiday entitlement or rest breaks
- concerns they've raised about not being paid the [National Minimum Wage](#)
- concerns they've raised about [whistleblowing](#)

There is extra [redundancy protection for pregnant employees and new parents](#). You must offer them any suitable alternative vacancies as a priority over other employees.

## How to score employees

You can have different levels of points according to the importance of each criteria ('weighting') for your organisation's needs.

For example, if it's agreed that attendance record is less important than performance, you can allow fewer points for this. So you could score attendance out of 5 points and performance out of 15.

You should have written evidence against each of the criteria.

### Example scoring criteria and points

Work performance:

- outstanding – consistently exceeds company standard 15
- exceeds objectives of the role 12
- meets all objectives of the role 9
- meets some objectives of the role 6
- fails to meet objectives of the role 3

Skills and competence:

- fully competent, multi-skilled, supports others on regular basis 15
- fully competent in current role 12
- competent in most aspects of current role, requires some supervision 9
- some competence in role, requires regular supervision and guidance 6
- cannot function without close support or supervision 3

Disciplinary record:

- no record of disciplinary action 5
- record of informal disciplinary action 4
- verbal warning current 3
- written warning current 2
- final written warning current 1

Attendance record:

- no recorded absence 5
- some absence but below average for selection pool (or workplace) 4
- attendance in line with workplace (or selection pool) average 3
- absence level above average for selection pool (or workplace) 2
- high and unacceptable level of absence 1